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April 15, 2014

Chief Craig Carter
Escondido Police Department
1163 North Centre City Parkway
Escondido, CA 92026

**Re: Fatal shooting of Mr. Pedro Martinez Campos on May 4, 2013 by Escondido
Police Officers Marco Fuentes and Patrick Hand; Escondido Police Department
Case No. 1305486; DA Special Operations Case No. 13-054PS; Deputy District
Attorney assigned: Patrick McGrath**

Dear Chief Carter:

We have reviewed the reports and other materials compiled by your agency's Robbery/Homicide Unit concerning the fatal shooting of Mr. Pedro Campos by Escondido Police Officers Marco Fuentes and Patrick Hand on May 4, 2013. A District Attorney Investigator responded to the scene and was briefed by Escondido Police Investigators. This case was presented to the District Attorney's Office for review on November 13, 2013.

Summary

Mr. Campos dialed the 911 operator and asked for a response to his location. Officer Hand arrived and saw Campos was armed with a knife. Officer Fuentes and others arrived to assist. Campos ran toward Hand with the knife and both Fuentes and Hand shot Campos, fatally wounding him. A note found in Campo's pocket indicated Campos believed this would be his last day alive. The incident was partially audio and video recorded.

Persons Involved

Mr. Pedro Campos was 29 years old at the time of this incident and lived in Escondido. Campos was armed with a knife that had an approximate overall length of 7 inches with a fixed 2 ¾ inch blade. Campos was a Spanish speaker.

Officer Fuentes had been a police officer with the City of Escondido for almost six years and had 14 years of law enforcement experience when this incident occurred. Fuentes had a video camera affixed to his shirt. Officer Hand had been a police officer for two years when this incident occurred. Both officers were in full uniform and assigned to patrol duties.

Background

Mr. Campos had previously been involved in a relationship with an individual who will be referred to herein as his ex-girlfriend. She ended the relationship and asked Campos to stop communicating with her. According to Campos's sister and Campos' ex-girlfriend, Campos became despondent and began to abuse drugs. On the date of this incident, Campos sent a text message to his ex-girlfriend stating he was going to kill himself.

Officer-Involved Shooting

At approximately 10:45 p.m., Mr. Campos dialed a 911 operator on his cell phone. He then hung up. The operator called back and had a Spanish translator speak with Campos. Campos requested a patrol car and said there would be a tragedy at Citrus Avenue and East Washington Avenue if they did not show up. Officer Hand arrived and located Campos. Campos asked if Hand spoke Spanish. Hand replied he did not but would request a translator. Campos walked away from Hand and Hand followed him. Campos lifted his sweatshirt and revealed he had a knife pointed to his own stomach. Hand ordered Campos to drop the knife, but Campos disregarded the repeated orders made by Hand.

Hand drew his pistol and called for urgent assistance. Officers Paul Smyth and Marco Fuentes, along with Police Explorer Erick Ortiz arrived. Smyth deployed his Taser at Campos but it apparently had no effect. Campos took the knife away from his own stomach and charged toward Hand. Fuentes and Hand fired at Campos until he fell. While on the ground, Campos said, "thank you." Fuentes kicked the knife out of Campos' hand. Officers rendered medical aid until paramedics arrived and transported Campos to the Palomar Medical Center where he was pronounced dead.

Officer Hand's Statement

Officer Hand responded to an incomplete 911 call. Hand located Mr. Campos walking in the street and noticed Campos had one hand under his sweatshirt. After establishing Campos spoke Spanish, Hand said he had a translator coming. Campos walked away. Hand followed Campos and asked Campos to show his hands. Campos lifted his sweatshirt with one hand, exposing a knife he was holding to his own stomach with the other hand. Hand asked for immediate assistance using his police radio and broadcast that Campos had a knife. Campos made movements from one hand to the other under his sweatshirt. Hand said to Campos in Spanish, to put his hands up ("manos arriba") and to sit down ("sientese").

When Campos did not comply, Hand put his flashlight away and drew his pistol. The pistol had a flashlight attached to it, which he turned on. When Campos saw Hand had drawn his pistol, Campos increased his pace. Hand shouted at Campos to drop the knife and get on the ground. Campos disregarded Hand's order and continued walking away, increasing his speed as he walked. Hand was in the street, walking sideways and parallel to Campos. As other police cars arrived, Hand got on the sidewalk ahead of Campos. Campos slowed down his pace. Hand walked backwards away from Campos while continuing to order Campos to drop the knife.

Hand heard Smyth arrive and order Campos to drop the knife. Smyth then yelled, "Taser!" Hand heard the cycle of the Taser's electrical current. Campos stopped, raised his right hand with the knife in it, and ran toward Hand. Hand fired his weapon twice. Hand heard an additional shot. Campos dropped to the ground immediately after being shot. Hand saw Campos was still holding the knife in his hand. Fuentes kicked the knife away. Hand heard Campos say "thank you."

Officer Fuentes' Statement

Officer Fuentes, a Spanish speaker, said he volunteered to cover a radio call of a Spanish speaking person that hung up on the 911 operator. Fuentes was equipped with a department issued video camera attached to his vest. Fuentes heard Officer Hand report the suspect had a knife and Hand needed cover immediately. Fuentes arrived and saw Campos walking toward Hand. It appeared as if Hand was walking backwards, retreating from Campos. Fuentes ran toward Hand's location, which was about 60 yards away. Fuentes was worried for Hand's safety because he saw Campos walking toward Hand and Fuentes knew Campos had a knife. Fuentes ran down the middle of the street to stay out of Hand's line of fire. Hand was 10 to 12 feet in front of Campos. Campos was stopped with his right hand under his sweatshirt. Campos made movements with his hands and Officer Smyth deployed his Taser at Campos, but it had no effect. Campos started lunging towards Hand with what Fuentes thought was a weapon in Campos's right hand. Fuentes fired his pistol at Campos. Campos fell to the ground and was clutching a knife. Fuentes heard Campos say, "thank you" twice. Fuentes approached Campos and kicked the knife out of his hand. Fuentes and the officers rendered medical aid to Campos until paramedics arrived.

Officer Smyth's Statement

Officer Smyth said he was dispatched to handle a radio call regarding an incomplete phone call to the 911 operator. Police Explorer Erick Ortiz was riding along with Smyth. Smyth heard Officer Hand had arrived and saw a suspect armed with a knife. When Smyth arrived, he saw Hand had his gun out and was backing away from Campos. Smyth could not see Campos' hands because they were under a sweatshirt. Campos was moving his hands around while walking toward Hand. Smyth decided to park his car and get out. Smyth drew his pistol and pointed it at Campos. Smyth saw Campos had a knife in his hand. Smyth transitioned from pistol to Taser. Smyth pointed the red aiming light at Campos. Smyth said he yelled, "I've got Taser." Smith fired the Taser and saw one of the two barbs connect into Campos' sweatshirt. Campos ducked forward and began sprinting in the direction of Hand. Smyth heard a pop sound and Campos fell, rolling onto his back. Smyth saw that Campos had a knife in his hand. Smyth heard Campos say, "Thank you". Smyth got his trauma kit and treated the subject for his gunshot wounds.

Explorer Ortiz's Statement

Officer Smyth and Explorer Ortiz were dispatched to handle a radio call regarding an incomplete phone call to the 911 operator. As they arrived, Hand was walking alongside Campos. Smyth told Ortiz to stay in the car. Ortiz helped stop the car as it rolled when Smyth got out. Smyth joined Hand while Ortiz remained in the passenger seat of the police car. Hand and Smyth ordered Campos to stop. Campos moved his hands in and out of his pockets. Campos looked confused and kept walking. Hand was pointing his pistol and Smyth used his Taser. Ortiz saw the Taser's projectiles go towards Campos. He heard a faint clicking from the Taser, but Campos did not go down. That was when Hand fired at Campos. Campos fell. Ortiz could hear the officers say Campos had a knife. The officers then rendered medical aid.

Witness Statements

The civilian witnesses consisted of neighborhood residents. The majority of the witnesses only heard the sound of gunshots and saw police activity after the shooting. One resident was outside of his home, taking out the trash. He heard the commands, "*Get down!*" being shouted. He then heard four shots. Another resident heard yelling: "*Get on the ground!*" The resident saw a police officer following a subject. They continued yelling to the subject to get on the ground, but the subject did not comply. Another police car drove up upon the scene quickly. A Taser was used on the subject, but it had no effect. Shots were fired and the subject fell to the ground. The resident heard an officer shout that the subject had a knife. The officers then provided CPR to the subject.

Investigation

The crime scene was secured and an investigation was conducted. The investigation determined Campos received a wound to his right arm from a single Taser barb fired by Officer Smyth. The second Taser barb missed Campos. Red scratch marks were observed on Campos' abdomen, consistent with marks that could have been made with a knife. Campos received four gunshot wounds. The wounds were to Campos's right chest, right upper back, right flank and right arm. Officer Fuentes fired his pistol three times and Officer Hand fired twice. Five expended .40 caliber shell casings were recovered at the scene. One of the officers' rounds missed Campos and was not located.

The video and audio recording from Fuentes's body camera was reviewed and captured the shooting. The video reveals commands were made to Campos and Campos ran at Hand prior to shots being fired. The call from the 911 Operator to Campos was also reviewed.

The fixed blade knife Mr. Campos was armed with was recovered near the location that Campos fell. A piece of paper was recovered from Campos' pants pocket. The paper was a handwritten note addressed from Campos to his ex-girlfriend indicating this day was the last day Campos would be alive. The note said Campos had drugged himself because he could not stand being without his ex-girlfriend. A toxicology report detailed that there was methamphetamine and amphetamine in Campos' blood.

Legal Analysis

This review was conducted pursuant to the joint protocol between this office and all San Diego law enforcement agencies calling upon the District Attorney to conduct an independent assessment of the circumstances surrounding the use of deadly force.

Under California law, peace officers may use deadly force to protect themselves from the threat of death or great bodily harm and to use reasonable force in making an arrest. California Penal Code section 835a allows an officer to use reasonable force to make an arrest and to overcome resistance by a person for whom he has reasonable cause to believe has committed a public offense. That section states the officer need not retreat or end his effort to make an arrest because of that person's resistance. Penal Code section 196 declares that homicide is justifiable when committed by public officers when necessarily committed in overcoming actual resistance in the discharge of any legal duty.

In accordance with Penal Code section 196, peace officers may use deadly force in the course of their duties under circumstances not available to members of the general public. We are mindful, however, that certain limits on the use of deadly force apply to peace officers. The U.S. Ninth Circuit Court of Appeals, in the case of *Scott v. Henrich* (9th Cir. 1994) 39 F.3d 912, delineated those circumstances under which deadly force may be used:

[P]olice may use only such force as is objectively reasonable under the circumstances. An officer's use of deadly force is reasonable only if 'the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.' All determinations of unreasonable force 'must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.'" [Citations omitted.]

Irrespective of any laws applicable to situations where peace officers use deadly force in accomplishing their duties, the law of self defense is available to any person. Homicide is justifiable in accordance with Penal Code 197 when resisting any attempt by a person to commit great bodily injury on or kill any person.

Conclusions

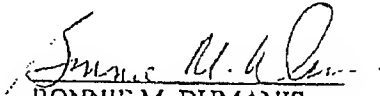
During this incident, uniformed police officers Hand and Fuentes responded to a radio call of a request for police. As Hand arrived and investigated the request for help, Campos produced a knife and held it to his own body. Fuentes' video camera recorded that as Fuentes arrived at the scene, Campos ran toward Hand while armed with the knife.

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Based on these circumstances, Officer Hand fired at Mr. Campos in self-defense. Officer Fuentes fired in reasonable defense of Officer Hand. Therefore, neither Fuentes nor Hand have any criminal liability for their actions.

A copy of this letter, along with the materials submitted for our review will be retained in our files.

Sincerely,


BONNIE M. DUMANIS
District Attorney
County of San Diego

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